PROTESTS AND APPEALS PROCESS

Rev 02 June 18, 2013

1. Who May Protest or Appeal: Any Document Holder showing a substantial economic interest in the award of a contract under this procurement who claims to be aggrieved in connection with the solicitation or proposed award of a contract under this procurement may protest to Sound Transit in accordance with the procedures set forth herein.

2. Timing of Protest: Protests based on the contents of this procurement must be received by Sound Transit no later than 7 business days prior to the date and time designated for submittal of Bids, Proposals, or Statements of Qualification. Protests based on other circumstances must be received within 5 business days after the allegedly aggrieved person or party is notified of the selection decision, contract award or intent thereof, whichever is earlier.

3. Contents of Protest: A protest shall be in writing and shall include: (1) the procurement title and/or number under which the protest is made; (2) the name and address of the allegedly aggrieved party; (3) a detailed description of the specific grounds for the protest and all supporting documentation; and (4) the specific ruling or relief requested. The written protest shall be addressed to: Director of Procurement & Contracts; Sound Transit; 401 S. Jackson Street; Seattle, Washington 98104-2826 and copied to: The Federal Transit Administration (FTA) Regional Office in Seattle; Jackson Federal Building; 915 Second Avenue, Suite 3142; Seattle, WA.

4. Protest Procedure: Upon receipt of a timely written protest, the Director of Procurement & Contracts, or his/her designee, will consider the protest in accordance with established procedures and promptly issue a written decision stating the reasons for the action taken and informing the allegedly aggrieved person of his/her right to appeal the decision to the Chief Executive Officer.

5. Appeal Procedure: The decision made by the Director of Procurement & Contracts, or his/her designee, shall be final and conclusive unless a written appeal to the Chief Executive Officer is received within five (5) business days of the earlier of Sound Transit's written, email or facsimile transmittal to the Protester of the Director of Procurement & Contracts' decision. The Chief Executive Officer, or his/her designee, will consider the appeal and promptly issue a written decision, which shall be final and conclusive. A copy of the decision shall be (a) mailed by U.S. mail and (b) emailed or faxed to the allegedly aggrieved protester, and the FTA.

6. Failure to Comply with Requirements: Failure of the protester to strictly comply with these protest and appeal requirements will render a protest or an appeal untimely or inadequate and may result in rejection thereof by Sound Transit.

7. Deadlines for all purchases below $100,000: A written protest in a purchase action valued below $100,000 (whether based on the content of the procurement or otherwise) must be received by Sound Transit within the earlier of (a) 2 business days of the opening of bids or (b) the time the Contract is executed or performed.

8. Exhaustion of Administrative Remedies: A protester may not commence litigation prior to exhausting all administrative remedies. Failure to exhaust all administrative remedies shall constitute an absolute waiver of the Protester's right, if any, to commence litigation.

9. Commencement of Litigation: After the exhaustion of all administrative remedies, the Protester shall have 10 business days in which to commence litigation. Failure to commence litigation within this limitation shall constitute an absolute waiver of the Protester's right, if any, to do so. Sound Transit may award and execute the Contract during this ten day period in accordance with state law.

10. Protests at the FTA Level (For Federally-Funded Projects only): Protests made to the FTA will be limited to Sound Transit's failure to have or follow its protest procedures, Sound Transit's failure to review a complaint or protest, or violations of Federal law or regulation. Any protest to the FTA must be made in accordance with the following guidelines:
a. A protest must be filed with the FTA no later than 5 working days after the protester learns or should have learned of an adverse decision by Sound Transit or other basis of appeal to FTA.
b. A protest to FTA must be filed in accordance with the FTA Circular 4220 as amended, effective on the date of the protest.